



MARK R. HORNAK
CHIEF JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
JOSEPH F. WEIS, JR. UNITED STATES COURTHOUSE
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April 26, 2024

VIA ELECTRONIC MAIL

CONFIDENTIAL DISCIPLINARY REFERRAL

James M. Fox, Disciplinary Counsel-in-Charge
Office of Disciplinary Counsel, Disciplinary
Board of the Supreme Court of Pennsylvania
Frick Building, Suite 1300
437 Grant Street
Pittsburgh, PA 15219

Re: Referral Concerning Conduct of Attorneys Joshua Paul Ward
(Pa. Bar No. 320347) and Travis Andrew Gordon (Pa. Bar No. 328314)

Dear Mr. Fox,

By this letter and pursuant to our Court's Local Rules, I am referring the following information regarding case-related conduct of attorneys Joshua Paul Ward and Travis Andrew Gordon (the "Attorneys") to the Office of Disciplinary Counsel ("ODC"). The matters set out in this letter were referred to me in my capacity as Chief District Judge, and it is in that capacity that I am referring them to ODC, after consultation with and with the concurrence of the Chairs of our Court's Attorney Disciplinary Committee.

I have attached the Transcript of a public hearing held on February 20, 2024, before United States District Judge Cathy Bissoon in two cases pending before her, Damien Malcolm v. Portfolio Recovery Associates, LLC, 2:24-cv-0053 and Robert Sofaly v. Portfolio Recovery Associates, LLC, 2:23-cv-2018 (**Exhibit A**). Also attached are: (1) an Order to Show Cause entered by Judge Bissoon on April 10, 2024, that initiated case-driven sanctions proceedings before her against the Attorneys in both the Malcolm and Sofaly cases pending before her (**Exhibit B**); (2) the original and amended Complaints filed in Malcolm and the original Complaint and a Motion for Leave to File an Amended Complaint filed in Sofaly, which motion has not yet been ruled upon by Judge Bissoon (**Exhibit C**); and (3) a collection of Complaints from other cases in this Court in which the Attorneys appear to use the same practice as was described during the February 20, 2024 hearing before Judge Bissoon (**Exhibit D**).

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In summary and as reflected in the attached Exhibits, the conduct at issue, is, in general terms, the Attorneys' practice of preparing handwritten letters, identical in content between multiple clients and admittedly containing "nonsensical" or "fluff" language, and directing a law firm staff member to "sign" the client's name to the letter, with an acknowledged aim and intent that the letter induce the debt collection agency recipient to violate the Fair Debt Collection Practices Act ("FDCPA") by failing to identify and report that the client's debt is being disputed. These handwritten letters, in turn, were attached as exhibits to civil complaints, typically filed in state court and removed to federal court, alleging violations of the FDCPA and containing an averment that the client sent the handwritten letter to the debt collection agency to inform the agency of the disputed nature of the client's alleged debts.

It appears from matters set out in other filings in our Court that the Attorneys have engaged in some iteration of this practice for several years. Exhibit D contains a sampling of FDCPA cases before this Court, and the United States District Court for the Eastern District of Pennsylvania following transfer, in which the Attorneys seemingly employed the above practice.

As referenced above, Judge Bissoon issued an order initiating sanctions proceedings in the two civil cases pending before her. Those proceedings may result in Judge Bissoon imposing some consequence upon the Attorneys in the context of the Malcolm and Sofaly cases. Separate from those case-specific sanctions proceedings, however, is that the Attorneys' conduct set out above and in the annexed papers may violate various of their professional responsibilities and obligations to this Court, their clients, opposing counsel, and the public as set out in the Pennsylvania Rules of Professional Conduct. Therefore, by this letter, and as a parallel matter to any proceedings pending before Judge Bissoon, in light of the referral of these matters to me in accordance with this Court's Local Civil Rule 83.3(B)(1) and the nature of the information available as set out above, after my consultation with and with the concurrence of the Chairs of our Court's Attorney Disciplinary Committee, I have concluded that it is appropriate to refer this matter to ODC for investigation, pursuant to that Local Rule (**Exhibit E**).

As has been this Court's practice in similar circumstances, absent a change in the facts as to these matters or other conduct of the Attorney(s) as members of the Bar of this Court or of the Commonwealth, this Court will defer to the ODC's processes during your Office's review of the propriety of the Attorneys' referred conduct, as related to the present circumstances and during the pendency of this matter with your Office. Therefore, absent a material change in circumstances, and separately from the sanctions proceedings which will proceed before Judge Bissoon, this Court will not further initiate or process disciplinary actions in this Court relative to the Attorneys' general admission to the Bar of this Court, or their ability to practice in this Court. Given that approach, any efforts that can be implemented to permit ODC to arrive at a decision as expeditiously as possible would be greatly appreciated by the Court.

The confidentiality provisions governing allegations of attorney misconduct found in this Court's Local Rules are considered waived for the purpose of facilitating this referral to ODC, which approach I conclude is in the public interest. *See* LCvR 83.3(K). I would also note that the

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Exhibits attached to this letter are items available on the public dockets of each of the referenced cases.

Thank you for your attention to this matter.

Respectfully,



Mark R. Hornak
Chief United States District Judge

cc: Joshua Ward, Esq.
Travis Gordon, Esq.
Brandy S. Lonchena, Clerk of Court